

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

STERICYCLE, INC.
Employer

and

Case 10-RC-233912

TEAMSTERS LOCAL 391 AFFILIATED WITH
INTERNATIONAL BROTHERHOOD OF
TEAMSTERS
Petitioner

ORDER

The Employer's Request for Review of the Regional Director's Decision and Certification of Representative is denied as it raises no substantial issues warranting review.¹

JOHN F. RING,	CHAIRMAN
MARVIN E. KAPLAN,	MEMBER
WILLIAM J. EMANUEL,	MEMBER

Dated, Washington, D.C., February 24, 2020

¹ The Regional Director cast doubt on the Hearing Officer's credibility-based finding that a pro-union unit employee used a racist slur in connection with the organizing campaign. The Regional Director did not, however, overrule that finding. Consequently, we assume that the slur was used. In denying review, we do not rely on the Regional Director's statement that the allegedly objectionable racial epithet by a union supporter was not disseminated to any eligible voter. It appears that the epithet may in fact have been disseminated to one unit employee. While we strongly condemn the use of racist language, the epithet was not sufficiently disseminated within the unit to justify setting aside the election, which the Petitioner won 17 votes to 5, under the standard for third-party conduct. See, e.g., *Accubuilt, Inc.*, 340 NLRB 1337, 1338 (2003). Similarly, Chairman Ring condemns the apparent threat by a unit employee that he wanted to "kick Chad's ass" for no longer supporting the Union, but agrees that this comment, in the absence of aggravating circumstances, does not warrant setting aside the election under extant precedent applying the third-party standard. See, e.g., *Lamar Advertising of Janesville*, 340 NLRB 979, 980-981 (2003).

Further, we do not rely on *Patient Care of Pennsylvania*, 360 NLRB 637 (2014), or *Polymers, Inc.*, 174 NLRB 282 (1969), *enfd.* 414 F.2d 999 (2d Cir. 1969), *cert. denied* 396 U.S. 1010 (1970), cited by the Regional Director. Both cases concern Board agent conduct during an election and are inapposite.